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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/762,883

01/21/2004

Steven R. Cratty

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06/15/2004

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EXAMINER

PATEL, TAJASH D

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/762,883

Applicant(s)

CRATTY, STEVEN R

Examiner

Tejash D Patel

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1/21/04
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-17, and 19-21 is/are rejected.
- 7) ☒ Claim(s) 9 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/10/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 3, 4, 5, 8, 10, 11 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Ceron (US 6,708,343). Ceron discloses a protective poncho including a main body panel (7) having a shoulder portion with a neck opening (60), front and back portions open at the sides and a pair of opposed outwardly extending sleeves (30,40) respectively secured to opposite sides of the shoulder portions as shown in figure 1. Further, the sleeves are defined as continuous tubular sleeves with each having forearm and upper arm portions that has an open bottom as also shown in figure 1. Furthermore, elastic distal wrist closures (25) are provide on the forearm portions, col. 5, line 56-61. Also, a hood (70) is secured to the shoulder portion being adjacent to the neck opening as shown in figure 8. Additionally, the sleeves overlap the shoulder portion at their proximal ends as shown in figure 1.

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Additionally, a waist belt (104) having a buckle (106) is adjustably fastened about the body when the poncho is worn. Also, a back portion of the poncho is provided with a storage pocket (90). Further, the poncho is fabricated from nylon, col. 5, lines 31-37 being inherently rip resistant.

With regard to claims 5 and 16, it is inherent that the upper arm portion of the sleeves as shown in figure 1 will expand in an area of their proximal ends when the arm is inserted therethrough.

With regard to claims 8 and 17, it is inherent that the front and back open side portions of Ceron as shown in figure 8, will be narrower side to side being adjacent to the shoulder area when the waist belt (104) is fastened thereabout.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 6, 7, 12-15, 17 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable Ceron in view of Gainer (US 5,754,982). Ceron discloses the invention as set forth above except for showing the opposite sides of the front and back portions having first and second belts, respectively which are attached by buckle fastener.

Gainer discloses a protective garment (20) including opposite sides of the front and back portions having first and second adjustable belts (34), respectively, which are attached by hook and loop fastener at front and back of the wearer.

It would have been obvious to one skilled in the art at the time the invention was made to substitute the adjustable belt of Ceron with hook and loop fastener as taught by Gainer or with snaps, buckles, etc, since such fastening devices are considered equivalent in the art.

#### ***Allowable Subject Matter***

5. Claims 9 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (703) 306-9184. The fax phone number for this group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

June 10, 2004

A handwritten signature in black ink, appearing to read 'Tejash Patel', with a long horizontal line extending to the right.

**TEJASH PATEL  
PRIMARY EXAMINER**